

STATEMENTS 1 and 2

TWO STATEMENTS AS TO THE FAITH, RITUAL, CEREMONIAL OR DISCIPLINE OF THIS CHURCH

EXPLANATORY MEMORANDUM

General Background

1. The General Synod is empowered by s.4 and s.26 of the Constitution to make "statements as to the faith ritual ceremonial or discipline of this Church". The procedural steps in relation to statements of this type are set out in Rule V.
2. A statement may be made by resolution or by canon (see Rule V). The circumstances whereby the General Synod might choose one option over the other are discussed by Justice Cox (President) in his 1987 Opinion.

Presumably a statement will be made when the General Synod simply wants to express its mind on a particular question, perhaps to settle a controversy or to indicate a new area of Church activity, and there is no need to legislate on the subject. However, as Rule V contemplates, there may be occasions for giving a statement legislative force, or providing by way of legislation for matters ancillary to the policy declared in the statement, and it will then be appropriate to embody the statement in a canon (p.34).

3. According to Justice Cox, "a declaration of General Synod's mind on an authorised topic will be a 'statement' within the meaning of the Constitution" (p.35). Justice Cox was of the view that it was not appropriate to take a narrow view as the form a statement must take - "A typical statement would be the sort of declaration that sometimes is contained in an Act of Parliament to resolve an uncertainty about the law, but a statement need not be confined to that form or purpose" (p.35).
4. The purpose of statements was also discussed in 1987 by Archbishop Rayner

...a primary purpose would appear to be an interpretive one. As early as 1921 a report to General Synod on the basis of a Church Constitution for Australia listed reasons why autonomy was desirable and said inter alia: "It is felt that the Church should accept its proper responsibility of interpreting the formularies it has adopted" (Quoted in R.A. Giles, op.cit., p.302). I think the significance of statements authorised by s.4 is to be understood against this background. They may interpret the application of the doctrine and principles of the Church embodied in the formularies in respect of particular questions that might arise in the areas of faith, ritual, ceremonial or discipline, provided that no inconsistency with the Constitution is involved (p.51).

5. The November 2020 Appellate Tribunal Majority Opinion in the Wangaratta reference repeatedly affirms that it is for the General Synod - and not the

Appellate Tribunal - to determine Church practice with respect to solemnisation of matrimony and the blessings of same-sex marriages. For example,

General Synod is the place to draw disciplinary or liturgical lines if it is the will of the Church to have uniformity in this particular matter or in the matter of what may or may not be blessed in worship (para 226)
(See similarly paras 179, 200, 214, 238, 258.)

6. In light of the controversy before our church raised by the blessing of same-sex marriages, it is appropriate to use statements to declare the mind of the General Synod on this matter.
7. It should be noted that a statement will not override the decision of a diocesan synod or diocesan bishop. It will, however, give guidance to diocesan synods and diocesan bishops who seek to act in ways which are consistent with the views of the General Synod.
8. Rule V requires a statement to be submitted to the General Synod office and circulated to General Synod members three months prior to the synod, so that there is sufficient opportunity for consideration prior to the session of Synod.
9. Rule V also provides a mechanism whereby the Statement can, if necessary, be referred to a select committee during the session of the Synod,
 - (ii) When the resolution is before the Synod it may appoint a select committee to examine and report upon it and fix the time for the report to be lodged with the Primate.
 - (iii) Upon resumption of the consideration of the statement the report shall be laid upon the table and at the discretion of the Primate may be printed or otherwise copied and circulated to members of Synod.
10. Given the extent of debate on these matters which has already occurred and the polarity of positions held (including a book of essays from the Doctrine Commission which canvasses the spectrum of views, and multiple opinions from the Appellate Tribunal), referring the **substance** of the matter to a Select Committee is unlikely to result in a "consensus report". A Select Committee that produces a "majority report" and a "minority report" will not advance us beyond our present position, and the prospect of this will politicise the process by which the Select Committee is appointed.
11. The effect, however, of referring the substance of the Statements to a Select Committee will be to delay the discussion of this issue until a future session of the General Synod.
12. It may, however, be appropriate to refer the **form** of the Statement to a Select Committee, and "fix[ing] the time for the report to be lodged with the Primate" to be within (say) 24 hours, so that this matter can be considered by the session of the General Synod which has come prepared to debate this matter.

STATEMENT 1

Marriage as the union of a man and a woman.

Pursuant to the authority recognised in s.4 and s.26 of the Constitution to make statements as to the faith, ritual, ceremonial or discipline of this Church, and in accordance with the procedures set out in Rule V, the General Synod hereby states:

1. The faith, ritual, ceremonial and discipline of this Church reflect and uphold marriage as it was ordained from the beginning, being the exclusive union of one man and one woman arising from mutual promises of lifelong faithfulness, which is in accordance with the teaching of Christ that, “from the beginning the Creator made them male and female”, and in marriage, “a man will leave his father and mother and be united to his wife, and the two will become one flesh” (Matt 19:4-5).
2. The solemnisation of a marriage between a same-sex couple is contrary to the teaching of Christ and the faith, ritual, ceremonial and/or discipline of this Church.
3. Any rite or ceremony that purports to bless a same-sex marriage is not in accordance with the teaching of Christ and the faith, ritual, ceremonial and/or discipline of this Church.

Notes on Clauses – Statement 01

Clause 1 The definition of marriage in this clause is in line with a series of previous resolutions of the General Synod on marriage (64/04, 52/07, 156/10, 48/17 and 51/17). Its form derives from two resolutions in 2017 in particular:

“the doctrine of our Church, in line with traditional Christian teaching, is that marriage is an exclusive and lifelong union of a man and a woman” (48/17)

“... the doctrine of our Church and the teaching of Christ that, in marriage, “a man will leave his father and mother and be united to his wife, and the two will become one flesh.” (51/17)

However, as a result of the recent Majority Opinions of the Appellate Tribunal, it is necessary to distinguish between the “the Church’s doctrine of marriage’ [and] the Constitution’s term ‘doctrine’ (defined as meaning ‘the teaching of this Church on any question of faith’” (Para 130, Wangaratta Opinion). “‘Doctrine’ is a constitutional concept which (where it applies) has a quite different meaning to the non-constitutional concept of this Church’s (or the Church of England’s) ‘doctrine of marriage’” (para 142). While the recent Appellate Tribunal Majority Opinions do not invalidate the previous resolutions of the Synod about the “doctrine of our Church” with respect to marriage, that phrase now needs to be understood in a qualified sense, in that our “doctrine of marriage” is not “doctrine” in the narrow, Constitutional sense of that word.

The purpose of clause 1 is to reaffirm what has been already said about marriage in previous resolutions of the General Synod, but to do so in language that avoids the potentially ambiguous word “doctrine”. This has been replaced with “faith, ritual, ceremonial and discipline”, which is the formula from s.4 and s.26 of the Constitution.

In light of the Majority Opinions of the Appellate Tribunal, the statement declares that “the faith, ritual, ceremonial and discipline of this Church **reflects and upholds** marriage as it was ordained from the beginning”. That is, the faith, ritual, ceremonial and discipline of this Church – taken collectively – are based on an understanding of marriage as the union of man and woman.

In particular, the “ritual” and “ceremonial” aspects of marriage arise from the authorised marriage rites and ceremonies of the church. The authorised rites for the solemnisation of marriage for the Anglican Church of Australia are for – and only for – the exclusive union of one man and one woman arising from mutual promises of lifelong faithfulness. Furthermore, there are also “discipline” implications that flow from this, because if a minister were to solemnise a marriage other than in accordance with these principles, it would be contrary to the “discipline” of the church.

This understanding of marriage as the union of man and woman is affirmed to be “in accordance with the teaching of Christ” as expressed in Matt 19:4-5.

Clause 2

Clause 2 is the logical corollary of clause 1. If the teaching of Christ and the faith, ritual, ceremonial and discipline of this Church reflect marriage as a heterosexual union, then the solemnisation of a same-sex marriage is contrary to the teaching of Christ and the faith, ritual, ceremonial and/or discipline of this Church. The words “and/or” in the final clause are to recognise that different conclusions may apply in different circumstances. For example, in light of the opinions of the Appellate Tribunal, the solemnisation of a same-sex marriage *may* not be contrary to the “faith” of the church, but would be contrary to its “ritual”.

It is necessary for Clause 2 to state the corollary to clause 1 explicitly, to ensure that churches can continue to rely on the exemption in the Marriage Act that allows them to refuse to conduct a same-sex marriage on church property.

When the Marriage Act 1961 was amended in 2018 to permit same-sex marriage, Section 47B was added to ensure that churches and other religious bodies could not be compelled to make their premises available for the solemnisation of same-sex weddings. However, in order to rely on this section, the religious body must be able to demonstrate that the refusal to conduct a same-sex marriage “conforms to the doctrines, tenets or beliefs of the religion of the body”.

Clause 2 makes explicit that solemnisation of same-sex marriage is contrary to the “doctrines, tenets or beliefs” of Anglican Church of Australia.

Clause 3 Clause 3 provides the opportunity for the General Synod to “express its mind on a particular question, perhaps to settle a controversy” (Justice Cox, as cited in para 2 above).

In 2004, the General Synod passed resolution 62/04:

Recognising that this is a matter of ongoing debate and conversation in this church and that we all have an obligation to listen to each other with respect, this General Synod does not condone the liturgical blessing of same sex relationships.

The liturgical blessing of same-sex relationships is currently permitted in some dioceses, and not in others, but this issue has not been debated in substance at General Synod since 2004. In light of the current circumstances, it is now appropriate for General Synod to again express its mind on this issue.

The form of clause 3 differs from clause 2, to reflect that fact that the General Synod is expressing a view as to what is “in accordance with” the teaching of Christ and the faith, ritual, ceremonial and discipline of the church. A liturgical act of blessing purports to carry or declare the blessing of God. Since the teaching of Christ and the faith, ritual, ceremonial and discipline of this Church reflect marriage as a heterosexual union, is not in accordance with this to bless a relationship that is not within this definition of marriage.

STATEMENT 2

Definition of Unchastity

Pursuant to the authority recognised in s.4 and s.26 of the Constitution, to “make statements as to the... discipline of this Church”, and in accordance with the procedures set out in Rule V, the General Synod states that it continues to hold the historic view that unchastity means sexual activity outside a marriage relationship, defined in the *Book of Common Prayer* as the union of one man and one woman, in accordance with Jesus’ teaching about marriage in Matt 19:4-5.

Notes Statement 2

The offence of “unchastity” appears in s.54(2A) of the Constitution and s.1 of the Offences Canon 1962.

The definition of unchastity is derived from the meaning of chastity. Chastity comes from the Latin word *castitas*, which originally meant “purity,” but came to refer specifically to sexual purity. In the Vulgate, the Latin word *castitas* translates words which refer to purity/holiness.

Across the Christian tradition (Roman Catholic, Orthodox and Protestant), the word chastity came to mean “sexual purity” in particular, and unchastity to mean “sexual impurity”. All Christians are called to be chaste, either in chaste marriage or chaste singleness – “Marriage should be honoured by all, and the marriage bed kept pure, for God will judge the adulterer and all the sexually immoral” (Heb 13:4).

“Unchastity” covers a broader field than adultery and fornication (each of which, strictly speaking, requires an act of sexual intercourse). Unchastity encompasses any form of sexual impurity or sexual activity outside the marriage relationship.

The RSV translates six instances of the Greek word πορνεία (*porneia*) as “unchastity”. For example, the RSV of 1 Thess 4:3 reads “For this is the will of God, your sanctification: that you abstain from unchastity (πορνεία)”. It is likely that the language of “unchastity” in the Offences Canon 1962 is a reflection of the RSV, which was the dominant translation used by the Church in the 1960s.

In the list of offences in the Offences Canon, the only offence of a sexual nature is unchastity, which demonstrates that unchastity has its historical meaning in this Canon, and encompasses any form of sexual impurity or sexual activity outside the marriage relationship, where marriage is as defined by the teaching of Christ and the faith, ritual, ceremonial and discipline of our Church.

Sex between two people of the same sex always was, and continues to be, an act of unchastity. A civil same-sex marriage does not change the status of the sexual act, because this is not a marriage relationship in accordance with the teaching of Christ or the faith, ritual, ceremonial and discipline of our Church.